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November 26, 2018

Honorable Kathryn C. Ferguson, U.S.B.J.
United States Bankruptcy Court
402 East State Street, 3rd Floor
Trenton, NJ 08608
Courtroom 2

Re: Pantaleo Laforgia and Anna Maria Laforgia
Case No. 17-22853(CMG)
Motion for Relief From the Automatic Stay
filed by the Bank of New York Mellon f/k/a Bank of New York
Return Date: December 4, 2018 @ 10:00 a.m.

Dear Judge Ferguson:

Please accept this letter brief in lieu of a more formal opposition to the motion of the Bank of New York Mellon (the “Bank”) for stay relief (the “Motion”) as to the Debtors’ property located at 287 Aldo Drive, Toms River, N.J (the “Property”).

The Motion is fatally flawed as it is devoid of any legal basis for the relief sought and simply attaches a certification of amounts due with no legal memoranda or additional support other than the loan documents and an Exhibit showing a portion of the Debtor’s filed Schedule “A” – curiously showing 344 Aldo Drive, property that is not the subject of the Motion.

In the context of real property worth less than secured debt, the Supreme Court has held that the "interest in property" protected by section 361 of the Bankruptcy Code does not include a creditor's right to immediate foreclosure and thus an undersecured creditor was not entitled to interest on its collateral during the stay to assure adequate protection under Code § 362(d)(1). *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 372, 108 S. Ct. 626, 631, 98 L. Ed. 2d 740 (1988)("[T]he creditor's "interest in property" obviously means their security interest without taking account of their right to immediate possession of the collateral on default.").

The Debtors have filed a Modified Plan which crams the Bank's claim of \$359,939 down to \$215,000 - the appraised value of the Property. The Debtors will make monthly payments of \$1,193.54 at 4% interest.

For the foregoing reasons, it is respectfully requested that the Court deny the Bank's Motion.

Respectfully submitted,

s/ Timothy Neumann
Timothy Neumann

TPN/gpn

cc: Shapiro & DeNardo. LLC (Attn: Krystin M. Kane, Esq.)